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BISPHAM'S FAMILY FIGHTS WOMAN HEIR

Mrs. Ten Eyck Should Provide Memorial to Singer, Say Contestants.

WILL CALLED ILLEGAL

Residue of Estate at Stake in Suit by Widow and Daughters.

FOURTH SHARE INVOLVED

Judge's Wife Had Been Considered Best Fitted to Carry On Barytone's Ideas.

Mrs. Caroline Russell Bispham and Miss Louisa A. Carnegie Bispham, widow and daughter of David S. Bispham, barytone, filed in the Surrogate's Court yesterday a contest of the will in which he left a quarter of his estate to Mrs. Henrietta Muller Ten Eyck of Newark. They requested that she devote some part of it to a memorial to him.

Fled with the will is a power of attorney to Henry B. Culver from Mr. Bispham's other daughter, the Countess Vida Daddi-Borgheri of Florence, Italy. The power of attorney empowers Mr. Culver to represent her in any way that may be necessary. Although from the face of the document it might appear that its signatory was not in sympathy with the contest by her mother and sister it was stated that it had been thought best for her to give Mr. Culver plenary powers on account of her distant place of residence.

Deny Will Was His Last.
Mrs. Bispham and her daughter objected to each of the four disposing clauses of the will. They also say the document was not his last will, that it was not legally executed and that it was not his free unconstrained and voluntary act.

The first clause, which provides that three-quarters of the estate be divided between his wife and daughter, is objected to on the ground that it is contrary to law. The three others, which provide that the remaining fourth of the apparent estate, exclusive of the residue, shall go to Mrs. Ten Eyck, and that the residue shall go to her, and that the wife's share in lieu of dower, are objected to on the ground that they are against public policy and against the law.

The expression "against the law" as used in objection to wills means usually that a will or clause does not conform to the statutes requiring that a decedent must make certain provisions for his natural dependents, or that his will has not been executed in statutory form.

Family Long Had Income.
Mrs. Bispham and Miss Bispham have lived for several years at the Rosemary Inn at Stamford, Conn., but Mrs. Bispham lived apart from her husband continuously after 1905, when he started suit for divorce in London. The case was dismissed, but he made provision for her and their children by arranging that they take all the income of a trust fund of \$100,000 created for his benefit in the will of his grandfather, David Scott, of Philadelphia.

He had power under his grandfather's will to dispose of the principal of the trust fund in his own will and it was stated that it formed the principal asset of his estate.

The residue of the estate, according to Mrs. Ten Eyck and John E. Hodges, who are his executors, consists principally of his music library and such objects as an artist is likely to accumulate, some of them valuable and some of them of no money value.

Mr. Bispham died in October and his will was filed in November. It was explained then that his friendship with Mrs. Ten Eyck and her husband was of many years standing and that he had made her one of his executors as she knew better than any one else of plans he had for the future of American music. Said the wife of Jay Ten Eyck, formerly a Judge of the Court of Common Pleas in Newark.

ENO'S INSTRUCTIONS BARRED IN WILL CASE

Housekeeper Tells of Master's Parsimony.

Instructions in letters written by Amos P. Eno and burned by order of Lord Day & Lord, the firm which drew up his will, were kept from the jury in the Surrogate's Court yesterday, although those contesting Eno's will want to show. If they can, that the orders were in variance with the provisions in the will, which left half of \$13,000,000 to Columbia University.

The jury was excluded from the court room for an hour while the question of the admissibility of the instructions was argued. Max Steur, attorney for the contestants, said that if the jury could draw the inferences that he could from the construction of the letters it would and the case. Counsel agreed to try to reach some stipulation on the letters out of court.

The principal witness of the day was Helen Desapens, housekeeper for Eno at Saratoga the summer before he died. She said he was miserably about small expenses, and told her she would have to manage without milk or kindling wood.

Eno often would express regret after having invited friends to dinner, the witness said, and would direct her to prepare the simplest kind of a meal. Once when she told him she did not think there would be enough food, he said:

"They will probably have had something to eat before they get here, and perhaps will have something more after they go. Anyway, most people eat too much."

HYLAN TO ATTEND DANCE.

Mayor Hyman and most of the city officials, together with the big and little chiefs of Tammany, will attend the annual ball and entertainment of the Anawanda Club, the Tammany Hall organization of the Twelfth Assembly District, usually known as Charles J. Murphy's club, at the Hotel Astor to-night. A dinner and vaudeville entertainment will precede the dancing in the ballroom.

NATION'S 1921 MORTALITY FALLS OFF 13.7 PER CENT.

Haley Fiske of Metropolitan Company Also Reports Great Gains in Life Insurance During Year at Conference of 800 Managers From All Over Country.

Deaths from all causes in the United States during 1921 declined 13.7 per cent., as compared with the figures for 1920, Haley Fiske, president of the Metropolitan Life Insurance Company, showed yesterday in addressing eight hundred of the country's managers from all parts of the country assembled at the Metropolitan Life Building for a conference.

The decrease in deaths from influenza was shown to have been 33 per cent. from pneumonia, 37.3 per cent. from influenza and pneumonia combined, 52.9 per cent. from typhoid fever, 1.5 per cent. from measles, 63.3 per cent. from

whooping cough, 40.9 per cent. from tuberculosis, 16.5 per cent. from Bright's disease, 5.8 per cent. from diseases of the heart, 1.7 per cent. and from diseases relating to child bearing, 15.2 per cent.

There were increases during the year in deaths as follows: From scarlet fever, 15 per cent.; from diphtheria, 5.4 per cent.; from suicide, 23 per cent., and from homicide, 13.8 per cent.

Industrial mortality figures for 1921, compared with 1920, show an improvement which, measured in terms of lives means the saving of 56,000 lives, Mr. Fiske said.

GUSSIE HUMANN AGAIN A PRISONER

Girl Is Rearrested in Garbo Murder After the Jury Gets Libasci Case.

The jury in the Supreme Court at Long Island City which heard the trial of the case against Joseph Libasci, 18 years old, of 72 Troutman street, Brooklyn, who is charged with the murder of Harry Dewey Garbo at Woodhaven, Queens, on the night of last October 27, was still out at midnight, and there was no indication that a verdict might be expected soon.

Gussie Humann, the eighteen-year-old girl who was charged by the State with having been the cause of the killing of Garbo and who was recently acquitted of a murder charge, was arrested soon after the Libasci case went to the jury. The arrest was made on the order of Robert Price Bell, Assistant District Attorney, after a conference with Justice Van Sicken. No charge had been made again for the night, but he made this statement after talking with Justice Van Sicken:

"We can hold Gussie either on a charge of perjury or on the charge of being an accessory to the death of Harry Garbo. We are going to send her to the Richmond Hill station house to-morrow morning where we will arraign her before the magistrate in the Jamaica Police Court on a short affidavit charging her with being an accessory. We will hold the perjury charge in abeyance for the time being."

The girl was taken to the Liberty avenue police station in Brooklyn by Detective Reid before being taken to Long Island City, and on the blotter of that station she is charged with perjury.

The girl's attorneys, William R. McGuire and Leo H. Hooley, declared that they would appear for her before the magistrate in Jamaica this morning. They would have brought a habeas corpus proceeding last night, they said, but they did not have time to make out the papers.

EVICTION APPEAL MADE BY MRS. HAMMERSTEIN

Remains in Opera House, Due to Sheriff's Leniency.

The widow of Oscar Hammerstein did not move out of her apartment in the Manhattan Opera House yesterday. The only reason she did not, she said, was because Sheriff Nagel did not think it fair to evict her at night. An order was obtained in the Supreme Court yesterday by her stepdaughters, Mrs. Stella Keating Pope and Mrs. Rose Foster, which removes her right to continue as an occupant of the house built by the impresario, where she has made her home since his death in 1913. It was the end of a long and involved legal battle.

Mrs. Hammerstein served notice of appeal from the order yesterday. This morning she will try to obtain from the Supreme Court a stay of execution which will enable her to remain in the apartment pending the hearing of her appeal.

She said last night that she had about \$12, that she had been pawning personal possessions to buy food, and that her Japanese boy Thomas had not been paid for two months.

"Numerous offers of assistance have come to me," said Mrs. Hammerstein, "but there was not one I felt I could take. They were from strangers, poor people mostly."

SONS OF HENRY AMY WOULD RESTORE FUND

Say \$50,000 Already Is Repaid and Plead for Time.

Louis H. and Ernest J. H. Amy, who were adjudged in contempt of court last week by Surrogate Cobham for failing to replace \$58,000, forming part of a trust fund in the assets of the estate of their father, Henry H. Amy, and surrendered themselves at Ludlow street jail, filed a petition yesterday asking that they be allowed to come into court and purge themselves of contempt.

Their petition set forth that they used the trust funds to avert the bankruptcy of the banking firm which their father left to them, and that they have since replaced \$50,000 of it and will be able to pay in more when the affairs of the firm, which is in bankruptcy, have been wound up. They declare that they have divested themselves of all property of their own to pay the firm's creditors and are without funds. Their petition closes with an assurance to the court that they believed the order calling on them to restore the trust funds meant only that they were to make restitution as rapidly as possible, and that they did not know it was contemptuous to disobey its exact letter.

CITIZENSHIP IS DENIED.

Federal Judge Thomas L. Chaffin in Brooklyn yesterday denied citizenship to George P. Georges was not among them. After the judge had heard Georges, who is 24 and a florist, say he had not been called in the draft because he had desisted parents in Greece yet had made no effort to go thither, he declined the application for citizenship.

TO HOLD TRAVEL EXPOSITION.

The pleasure and educational advantages of travel will be pointed out in an exposition at Grand Central Palace, Forty-sixth street and Lexington avenue, during the week of March 25. It will be given by leading steamship lines, railway, resorts and foreign government tourist bureaus, under the auspices of the Travel Club of America, of which Henry Collins Walsh is president.

WANTED HIGH RENTS, COLONIZED NEGROES

Lessee of Nine Houses in Lower St. Nicholas Av. Attacked in Inquiry.

WHITE WOMEN AFRAID

Story of Charles Klein's Deal With Flats Unfolded by Undermyer.

HOUSING BILL UP MONDAY

Casualty Insurance Methods to Stifle Competition Revealed at Hearing.

Samuel Undermyer, counsel to the Lockwood legislative committee on housing, concluded his inquiry into the methods of gouging landlords yesterday by drawing out the details of an attempt by a St. Nicholas avenue lessee to colonize negroes in what was an exclusively white section as retaliation for the refusal of tenants to accept staggering rent increases.

The housing committee's lawyer then went on the trail of the latest monopoly which, he charges, has operated to boost rents and building costs—that of the casualty insurance companies, or those writing liability, automobile, compensation and surety policies.

Between times Mr. Undermyer announced that the proposed amendment to the insurance law, by which it is hoped to get the \$100,000,000 building plan for cheap tenements under way at once, will be introduced in the Legislature on Monday night. In addition he found time to summarize the offenses the committee feels have been perpetrated against the public by the General Electric Company as they have been disclosed by the committee, and to recommend that the record be sent to the Attorney-General at Washington.

To round out the day Mr. Undermyer gave to John F. Burns, Chief Clerk of the Seventh District Court, what virtually amounts to a clean bill of health in connection with his collection and disbursement of rent money. He then urged the immediate passage of enabling legislation to permit the State to take an appeal in case certain indictments found against dealers in building supplies in Buffalo by the Erie County Grand Jury, as a result of the committee's work there, are dismissed.

Negro Colonizer Accused.

Charles Klein, lessee of a group of nine houses in St. Nicholas avenue, between 118th and 119th streets, and near the church and parochial school of St. Thomas the Apostle, was the landlord who, it was charged, attempted to organize a negro colony because his tenants repeatedly took him to court on rent increase cases and won their cases. Klein had an opportunity to explain but was not given an immunity waiver and was not questioned.

The case against Klein was presented by Harry Goodstein, a realty operator and builder and president of the West Harlem Property Owners' Association. According to his story, the block of houses, about thirty years old and worth approximately \$450,000, was purchased at an advantageous figure involving a cash payment of only \$60,000 in 1919 by E. W. Browning, one of the largest realty operators in the city.

According to Goodstein, Browning made some minor improvements such as painting the fronts and hallways of the houses, and raised the rents from an average of \$40 to \$60 and \$65. There was not much objection to this, said Goodstein, because rents were going all over. But a short time later, after Browning leased the block to Klein, the new landlord demanded an additional increase to \$100, and in some cases more. The tenants refused to pay and were sustained by the courts.

Goodstein's story was that Klein told him he was paying a tremendous rent to Browning for the block, amounting to at least \$100,000 a year, and that the rent rolls only aggregated \$84,000. When asked why he undertook such a bad bargain, Goodstein said Klein explained that Browning assured him he could double the rents and make good money on the proposition. Goodstein continued: "When he found he couldn't, he wanted us to take his lease over as a community proposition, and said if we didn't do it he would bring in negro tenants and ruin the neighborhood."

"White Woman Frightened."

Thereupon, Klein advertised in Newark and Baltimore papers offering the "attractive Garden Court apartments in St. Nicholas avenue" to negro tenants. Until soon, according to Goodstein and other witnesses who followed, the community lost its former status and persons who had lived in the neighborhood for years and were identified with the church and social life of the community were forced to move.

Dr. Michael C. O'Brien, a practicing physician of 161 West 122d street, long familiar with the district, testified that Klein had converted some of the houses into lodging places for colored transients, and that as a result the white women folk of the community had become frightened, children were afraid to go in or out of apartments unaccompanied and an investment of \$125,000 by the church of St. Thomas the Apostle had been adversely affected.

Arthur N. Seaman, one of the tenants in 204 West 119th street, one of Klein's houses, told of receiving a copy of Klein's advertisement offering his apartment for occupancy by negroes after he had refused to accept a rent increase from \$50 to \$85. He said the community had changed from a peaceful one to a "roughhouse" one.

Adolph Koppel, vice-president of the Central Savings Bank, which took property originally on a foreclosure and sold it to Browning for a total consideration of \$235,000, said he had sent for Mr. Browning after he had seen the advertisement offering the property to negroes. Mr. Koppel said:

"I called his attention to that, and told him that what ought not to be done, that he would inflict great injury on the owners of property in that section of the city."

Mr. Koppel testified that Browning replied that he had leased the property to Klein and that he had nothing more to do with it.

"Was that all?" asked Mr. Undermyer.

"That was not all," Mr. Koppel replied. "When Mr. Browning said that he could not do anything, and when I had determined that by moral suasion I

could not succeed, I made it clear to him that he was inflicting a great wrong. I used the words: 'Your name will be cursed by all people whom you are injuring, hundreds and thousands of them perhaps.' He said: 'Well, I can not help that,' and he left."

Seaman, the previous witness, testified he had gone to Browning as the actual owner of the property protesting against Klein's admission of negroes.

"What did he say?" asked Mr. Undermyer.

"He said, 'Seaman, ever since Abraham Lincoln liberated the colored man he has been on the same footing as the white. If white people won't pay Klein his rent he will get it out of the colored people.' I said 'Thank you, I came for your opinion, and I've got it.'"

Mr. Browning, for whom a subpoena had been issued for the morning session, appeared at the opening of the afternoon hearing, accompanied by Mark Eisner as counsel. He refused to sign a waiver of immunity and was not put on the stand.

"I advised Mr. Browning not to sign a waiver," Mr. Eisner said, "as I did not want him browbeaten by Mr. Undermyer. He is willing to appear before any Grand Jury, sign a waiver and answer any questions asked of him."

Albert N. Whitney, associate general manager of the National Bureau of

Casualty and Surety Underwriters, a former actuary and professor of mathematics of the University of California, testified concerning methods of business of the casualty companies of the East. The bureau, of which Jesse S. Phillips, former State Superintendent of Insurance, is general manager, Mr. Undermyer contends, is as rockribbed a rate fixing and controlling agency in its field as the Fire Insurance Exchange was in its.

Mr. Whitney's testimony showed that mutual companies are as rigorously excluded from the stock companies' bureau as were the mutual fire companies from the Fire Insurance Exchange until the Lockwood committee forced their admission on grounds of equality with the stock companies.

Mr. Whitney was questioned about casualty insurance rate cutting in Boston in 1920. He admitted that stock companies took a loss of \$600,000, but would not say if the losses there were charged against New York.

Gerald H. Drury, a certified public accountant employed by the committee, testified that he had audited the books of Burns, the clerk of the Seventh District Municipal Court, and found them correct. The rent and jury fee accounts had aggregated more than \$1,900,000 under the new rent laws.

The committee will meet at 10:30 this morning.

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